

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2022 - - T

IN RE: Petition of the South Carolina Office of)
Regulatory Staff to Revoke Certificates)
of Public Convenience and Necessity) **PETITION FOR REVOCATION OF**
of Certain Motor Carriers for Non-) **CERTIFICATES OF PUBLIC**
Payment of Decal Fees and/or for) **CONVENIENCE AND NECESSITY**
Failure to Maintain and File Evidence) **OF CERTAIN MOTOR CARRIERS**
of Insurance)
)

The South Carolina Office of Regulatory Staff (“ORS”), by filing this Petition for Revocation of Certificates of Public Convenience and Necessity of Certain Motor Carriers (“Petition”), for motor carriers listed in Exhibits A and B attached hereto (the “Companies” and each individually a “Company”),¹ would respectfully show and request of the Public Service Commission of South Carolina (“Commission”) as follows:

1. Pursuant to S.C. Code Ann. § 58-23-10, *et seq.*, the Commission is responsible for regulating motor vehicle carriers, as defined in S.C. Code Ann. § 58-23-10(4), that are operating for compensation in South Carolina.
2. Pursuant to S.C. Code Ann. § 58-4-10(B), ORS has the duty to represent the public interest of South Carolina, which means the concerns of the using and consuming public with respect to public utility services (including services provided by motor vehicle carriers) regardless

¹ Exhibits A and B include the mailing addresses that were provided by each of the Companies and that are on file with the Commission and ORS. *See* Exhibit A, Non-Payment of Decal Fees 2022; Exhibit B, Failure to Obtain Proper Insurance 2022; and Exhibit C, Affidavit of Dina Lusk.

of the class of customer, and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high-quality utility services.

3. The Companies previously applied to the Commission for a Certificate of Public Convenience and Necessity (“CPCN”) to operate as a motor vehicle carrier as defined in S.C. Code Ann. § 58-23-10(4). Furthermore, these Companies have received a CPCN from the Commission and have been certified by ORS to operate as “motor vehicle carriers” and to own, control, operate, or manage motor propelled vehicles, not usually operated on or over rails, used in the business of transporting persons or property for compensation over improved public highways in this State. Accordingly, the Companies are subject to the jurisdiction of this Commission pursuant to S.C. Code Ann. § 58-23-1010 *et seq.* See Exhibit A, Non-Payment of Decal Fees 2022, and Exhibit B, Failure to Obtain Proper Insurance 2022.

4. The Companies were found by the Commission to be fit, willing, and able, prior to obtaining their CPNC to operate as motor vehicle carriers. The Companies further have certified that they are “familiar with all statutes and regulations, including safety operations in South Carolina, and agree to operate in compliance with these statutes and regulations.” 10 S.C. Code Ann. Regs. 103-133(4)(a). The Companies further certified that they are “aware of the commission’s insurance requirements and the costs associated therewith.” 10 S.C. Code Ann. Regs. 103-133(4)(b).

5. Pursuant to S.C. Code Ann. § 58-23-560, holders of Class A, B, or C CPCNs:

[W]ith less than twenty vehicles must semi-annually **on or before January first and July first of each year** pay to the ORS the following fees: for vehicles weighing not more than two thousand pounds, seven dollars and fifty cents; and for vehicles weighing in excess of two thousand pounds, seven dollars and fifty cents for the first two thousand pounds and two dollars and fifty cents additional for each additional five hundred pounds or part thereof of weight, except that the total license fee may not exceed fifty dollars per vehicle semiannually. (Emphasis added).

6. The Companies listed in Exhibit A are subject to the provisions of S.C. Code Ann. § 58-23-560, but failed to pay the requisite fees that were due on or before December 15, 2021, despite being notified by ORS of their delinquency. Accordingly, these Companies are not in compliance with applicable motor carrier statutes and regulations. *See* Petition Exhibit C, Affidavit of Dina Lusk.

7. The Commission also requires motor carriers to procure and file proper proof of insurance and that such proof of insurance “must be kept in full force and effect.” S.C. Code Ann. § 58-23-910. *See also*, 10 S.C. Code Ann. Regs. 103-171 and -174.

8. Notwithstanding these requirements, the Companies listed in Exhibit B failed to file the requisite proof of insurance, even after ORS notified them of their delinquency. *See* Exhibit C, Affidavit of Dina Lusk.

9. Pursuant to 10 S.C. Code Ann. Regs. 103-175:

[A] failure to file evidence of insurance, self-insurance or surety bond shall be just cause for the commission, without further evidence or hearing, to suspend its order granting authority or to suspend the certificate or any license issued to the motor carrier. A failure to keep all insurance, self-insurance, or surety bond in full force and effect shall result in automatic suspension, upon receipt of an affidavit from the ORS with supporting evidence, of the commission’s order granting authority, the certificate, and any license issued to the motor carrier...

See also S.C. Code Ann. § 58-23-910 (“The [insurance] policy, [surety] bond or certificate of self-insurance...must be kept in full force and effect and failure to do so is cause for the revocation of the certificate.”).

10. In addition, 10 S.C. Code Ann. Regs. 103-240 provides:

[T]he commission may at any time, after notice and opportunity to be heard, suspend, revoke, alter, or amend any certificate, if it shall be made to appear that the holder has willfully violated or refused to observe orders, rules, or regulations prescribed by the commission, provisions of the Motor Vehicle Carrier Law, or any other law of this State regulating motor carriers for hire

and applicable to the holder of such certificate, or, if, in the opinion of the commission, the motor carrier holding a CPNC is not furnishing adequate service or it is no longer compatible with the public interest to continue said certificate in force, or, if in the opinion of the commission, the motor carrier holding a Certificate of FWA is no longer furnishing adequate service, or said carrier no longer meets the fit, willing, and able criteria....

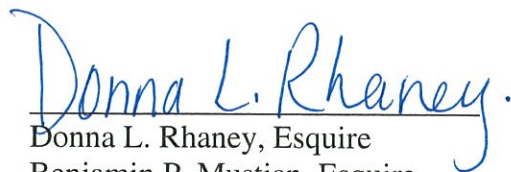
11. Further and in accordance, with S.C. Code Ann. § 58-23-320:

[T]he commission may, after a hearing, order the suspension, revocation, alteration, or amendment of any certificate issued pursuant to Articles 1 through 11 of this chapter, if it is proved that the holder of the certificate willfully made any misrepresentation of a material fact in obtaining his certificate or willfully violated or refused to observe the laws of this State touching motor vehicle carriers or willfully violated any of the terms of his certificate or of the commission's proper orders, rules or regulations. But the holder of the certificate has the right of appeal to any court of competent jurisdiction. The commission must not be a party to any appeal.

WHEREFORE, based on the above and any additional evidence to be presented at the hearing in this matter, ORS respectfully requests that the Commission:

1. Open a docket and issue a rule to show cause requiring each Company to respond to the allegations of this Petition within thirty (30) days of its receipt;
2. Schedule a formal administrative hearing as soon as practicable to address disputed issues of fact and law regarding the CPNC of the carriers listed in Exhibits A and B, which ORS seeks to have revoked by the Commission in this action;
3. Following the formal administrative hearing, immediately rule to revoke the Certificates of the Companies that fail to respond, to pay the fees that are due and owing, or to provide the requisite proof of insurance, and thereafter immediately enter a final Order granting such requested relief; and
4. Grant such other relief as is just and proper.

[Signature Page Follows]



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Columbia, South Carolina